

SENATE BILL 85

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2003 Regular Session
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By: **Senator Astle**
Introduced and read first time: January 22, 2003
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 11, 2003

CHAPTER _____

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Risk Based Capital - Exemption from**
3 **Excessive Premium Growth Charge**

4 FOR the purpose of exempting the Injured Workers' Insurance Fund from the
5 excessive premium growth charge or other penalty associated with premium
6 growth in any risk based capital calculation; providing for the termination of a
7 certain exemption; providing for a delayed effective date for certain provisions of
8 this Act; and generally relating to the Injured Workers' Insurance Fund.

9 BY repealing and reenacting, with amendments,
10 Article - Labor and Employment
11 Section 10-125
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2002 Supplement)

14 BY repealing
15 Article - Labor and Employment
16 Section 10-125(f)
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2002 Supplement)
19 (As enacted by Section 1 of this Act)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

Article - Labor and Employment

10-125.

(a) Except as provided in subsection (b) of this section, the Fund shall be:

(1) examined by the Commissioner in accordance with §§ 2-205 and 2-207 through 2-209 of the Insurance Article; and

(2) subject to the following provisions of the Insurance Article:

(i) Title 4, Subtitle 3 (Risk Based Capital Standards for Insurers) as provided in subsection (d) of this section;

(ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities, Reserves, Valuation of Assets and Reinsurance);

(iii) Title 9 (Impaired Entities); and

(iv) §§ 3-124 (Bulk Reinsurance - Stock Insurers), 4-115 (Home Office; Location of Accounting Records and Assets), 4-116 (Annual and Interim Statements; Audited Financial Reports), and 4-118 (Qualified Independent Certified Public Accountants).

(b) (1) The Commissioner may not take any action to enforce any provision of the Insurance Article to which the Fund is subject under subsection (a) of this section except:

(i) the Commissioner may issue an order under Title 9 (Impaired Entities) of the Insurance Article; and

(ii) the Commissioner may take action authorized under §§ 4-305, 4-306, 4-307, and 4-308 of the Insurance Article relating to risk based capital standards for insurers.

(2) Any order issued under this subsection:

(i) may not include a requirement that the Fund increase rates; and

(ii) shall be subject to Title 2, Subtitle 2, of the Insurance Article.

(3) The Commissioner shall report to the Board on the results of any examination conducted under subsection (a)(1) of this section.

(c) (1) The Commissioner may examine or review the Fund for compliance with:

(i) Title 12, Subtitle 1 of the Insurance Article (Policy Forms and Provisions);

1 (ii) except for § 19-403 (Setting Premium Rates), Title 19, Subtitle
2 4 of the Insurance Article (Workers' Compensation Insurance); and

3 (iii) Title 27 of the Insurance Article (Unfair Trade Practices and
4 Other Prohibited Practices).

5 (2) The Commissioner may not take any action to enforce any provision
6 of the Insurance Article under which the Commissioner has examined or reviewed
7 compliance under this subsection.

8 (3) The Commissioner shall report to the Board on the results of any
9 examination or review conducted under this subsection.

10 (d) With respect to any risk based capital calculation under Title 4, Subtitle 3
11 of the Insurance Article, the Fund shall be subject to the following reductions:

12 (1) for calendar year 2001, the required risk based capital for the Fund
13 shall be 50% of the requirement for each action level set forth in §§ 4-305 through
14 4-308 of the Insurance Article;

15 (2) for calendar year 2002, the required risk based capital for the Fund
16 shall be 60% of the requirement for each action level set forth in §§ 4-305 through
17 4-308 of the Insurance Article;

18 (3) for calendar year 2003, the required risk based capital for the Fund
19 shall be 70% of the requirement for each action level set forth in §§ 4-305 through
20 4-308 of the Insurance Article;

21 (4) for calendar year 2004, the required risk based capital for the Fund
22 shall be 85% of the requirement for each action level set forth in §§ 4-305 through
23 4-308 of the Insurance Article; and

24 (5) for calendar year 2005, the required risk based capital for the Fund
25 shall be 100% of the requirement for each action level set forth in §§ 4-305 through
26 4-308 of the Insurance Article.

27 (e) For calendar years 2002 through 2005:

28 (1) if the Fund's risk based capital does not equal or exceed the phase-in
29 level required under subsection (b) of this section, the provisions of §§ 4-305 through
30 4-308 of the Insurance Article applicable to that level shall apply;

31 (2) (i) if the Fund's risk based capital equals or exceeds the phase-in
32 level required under subsection (b) of this section, but is less than 100% of the
33 company action level required under Title 4, Subtitle 3 of the Insurance Article, the
34 Fund shall file a status report concerning the Fund's November 2, 2001 risk based
35 capital plan; and

1 (ii) the status report shall state whether the annual results meet or
2 exceed the results projected in the risk based capital plan and shall describe any
3 appropriate modification or adjustment to the plan; and

4 (3) if the Fund's risk based capital equals or exceeds 100% of the
5 company action level required under Title 4, Subtitle 3 of the Insurance Article, the
6 Fund may not be required to file a risk based capital plan for that year.

7 (f) The Fund [may exclude] IS NOT SUBJECT TO THE EXCESSIVE PREMIUM
8 GROWTH CHARGE OR ANY OTHER PENALTY ASSOCIATED WITH premium growth
9 [associated with the residual market business] in any risk based capital calculation
10 [if the Insurance Commissioner approves the definition of residual business used by
11 the Fund].

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article - Labor and Employment**

15 10-125.

16 [(f) The Fund is not subject to the excessive premium growth charge or any
17 other penalty associated with premium growth in any risk based capital calculation.]

18 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
19 take effect January 1, 2005.

20 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in
21 Section 3 of this Act, this Act shall take effect October 1, 2003.